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DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-217462 **DATE:** June 3, 1985

MATTER OF: Marshall L. Dantzler

DIGEST:

A transferred employee refinanced his residence at the old duty station in order to obtain assumable financing for the purchaser. The expenses involved in refinancing are reimbursable to the extent such costs are reasonable and customary in the area and otherwise allowable under the Federal Travel Regulations.

An employee may be reimbursed for the reasonable and necessary costs incurred in refinancing his residence at the former duty station in order to obtain assumable financing for the purchaser.[1]/

BACKGROUND

Mr. Marshall L. Dantzler, an employee of the Department of Agriculture, was authorized a permanent change of station from Fairfax, Virginia, to Montgomery, Alabama, by a travel authorization dated August 1, 1983. In connection with the transfer Mr. Dantzler sold his residence in Fairfax. As part of the sales transaction he refinanced his house in order that the purchaser could assume a mortgage under more favorable terms. The refinance, assumption, and closing were part of the same transaction.

In connection with the cost of refinancing the mortgage on his old residence Mr. Dantzler has claimed reimbursement for the following expenses:

1/ Mr. W. D. Moorman, an authorized certifying officer with the Department of Agriculture's National Finance Center, has requested an advance decision on the claim of Marshall L. Dantzler for certain expenses incurred in connection with the sale of his residence.

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Loan Origination Fee	$ 794.50
Title Insurance	190.00
ERA-BPP (Buyer's protection policy)	280.00
State Revenue Stamp	165.00
Recording Fees	36.00
Power of Attorney	11.00
Insurance Binder	50.00
Total	$1,526.50

The certifying officer has requested our opinion on whether these are allowable costs since they were part of the same transaction as the assumption and sale. The certifying officer also asks whether the fact that a purchaser would normally pay some of these costs if it were a new mortgage instead of a refinancing package affects the employee's reimbursement.

DISCUSSION

The statutory and regulatory authority for reimbursement of real estate expenses incurred by a Federal civilian employee upon transfer of official station is contained in 5 U.S.C. § 5724a(a)(4) and Part 6, Chapter 2 of the Federal Travel Regulations, incorp. by ref., 5 C.F.R. § 101-7.003 (1983). Under these authorities we have allowed reimbursement of the expenses incurred by an employee in obtaining a new mortgage or a second mortgage on his residence at his former duty station where the mortgage transaction on that residence was part of the "total financial package" essential to the purchase of a residence at the new duty station. Arthur J. Kerns, Jr., 60 Comp. Gen. 650 (1981), and James R. Allerton, B-206618, March 8, 1983. In Kerns the second mortgage obtained by the employee was not on the residence which he was purchasing but on his old residence which he had been unable to sell. The purpose of the second mortgage transaction was to obtain funds to make the downpayment on the residence which he was purchasing at his new duty station. We viewed the second mortgage transaction as being a part of the total financial package essential to the purchase of the new residence. In Allerton the employee refinanced his residence at the old duty station in order to facilitate its sale and in order to obtain a downpayment for purchase of a residence at the new duty station. Costs of the refinancing were allowed. The mortgages in both Kerns and Allerton were secured by the employees' interests in the old residences and were, therefore, considered real estate transaction expense and not merely personal financing.

We have also permitted an employee to be reimbursed for the cost of refinancing his old residence in order to obtain an assumable mortgage for the new purchaser and a downpayment on his new residence. Charles A. Onions, B-210152, June 28, 1983. The common thread present in all of these decisions is that the financial transactions involved, a second mortgage, a new mortgage, and a refinanced mortgage, were secured by the employee's interest in his residence at the old duty station. We have disallowed claims where the financial package involved a property not located at the old or the new duty station. Roger L. Flint, 62 Comp. Gen. 426 (1983). Since the employee in most instances must sell his old residence or secure a second mortgage on the old residence in order to purchase a residence at the new official station, we viewed the financial transactions as being one total financial package.

In Mr. Dantzler's case the money obtained by him was not used as a downpayment on a new residence. He had already purchased a new residence before his former residence was sold. The financial transaction was solely to facilitate the sale of his former residence. However, we recognized in Onions that the obtaining of an assumable mortgage for a prospective purchaser was often necessary in today's real estate market. The general principle behind the case in question is that costs involved in the financing and refinancing of the old residence in order to facilitate residence transactions may be allowed. Accordingly, we find that the claimed real estate expenses may be allowed, if otherwise proper.

Reimbursement for a title insurance policy may be allowed where the title insurance is purchased primarily for the protection of the lender. James E. King, B-183958, April 14, 1976, and FTR, para. 2-6.2c. This is to be distinguished from a buyer's or owner's protection policy, the cost of which is not generally reimbursable. See FTR, para. 2-6.2d(2)(a). In this connection the insurance binder would be reimbursable to the extent it covered the title insurance policy. A loan origination fee of one percent is

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reimbursable for transfers occurring after October 1982. Robert E. Kigerl, 62 Comp. Gen. 534 (1983). Powers of attorney and recording fees are reimbursable under FTR paragraph 2-6.2c. State revenue stamps are reimbursable under FTR paragraph 2-6.2d(e). In summary the $280 claim for buyer's title protection should not be allowed. The $50 insurance binder may be allowed if required by the lender. Other claimed items appear to be allowable items.

In response to the question concerning whether the seller or purchaser should pay these costs, we point out that this is a refinancing package. The party obtaining the financing is responsible for payment of the expenses as a part of the cost of the financial package and may be reimbursed under the travel regulations to the extent that the costs are reasonable and customary for the area. Charles A. Onions, B-210152, supra.

Action should be taken on Mr. Dantzler's claim in accordance with the above.

for Milton J. Socolar
Comptroller General
of the United States